ORDER.

Bangalore, dated 13th July, 1965.

S. O. 2794.—WHEREAS by State Government Order No. PLM 168 LLD 64, dated 6th October 1964, the Industrial Dispute between the Workmen and the Management of Bagalkot Cement Co. Ltd., Bagalkot, was referred to the Industrial Tribunal, Bangalore, for adjudication;

AND WHEREAS before the said Industrial Tribunal, a complaint was made under Section 33A of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), by Shri Sabanna Peerappa alleging that he was terminated from Service.

AND WHEREAS the said Industrial Tribunal adjudicated upon the said complaint and submitted its award to the State Government as required under Section 15 read with Section 33A of the said Act:

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), the Government of Mysore, hereby directs the publication of the said award in the *Mysore Gazette*.

[No. PLM 168 LLD 64(ii)].

By Order and in the name of the Governor of Mysore,

510 G. G. PUROHIT, *Under Secy.*

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

Dated 30th June 1965.

Present:

Sri R. Krishna Setty, B.A ,LL B., ... Presiding Officer.

Serial No. 43 of 1964
in I. D. No. 38 of 1964

Applicant :

The Management of
Bagalkot Cement Co. Ltd.,
Bagalkot, Bijapur District.

Vs

Opposite Party:

Sri Sabanna Peerappa,
C/o Secretary,
Bagalkot Cement Co.
Workers' Union,
Bagalkot, Bijapur District.

Complaint No. 25 of 1964
in I. D. No. 38 of 1964.

Complainant:

Sabanna Peerappa,
Token No. 256, Packing
House, C/o Bagalkot Cement
Co. Workers' Union,
Bagalkot, Bijapur District.

Opposite Party :

Management of
Bagalkot Cement Co,
Ltd., Bagalkot,
Bijapur District.

Representations.

Sri D. M. Khalasi and Sri M. C. Narasimhan for the Workman,
Sri B. Narayanaswamy, Advocate, for the Company.

(Government Reference No. PLM 168 LLD 64,
dated 6th October 1964.)

AWARD

An industrial dispnte between the workmen and the management of Bagalkot Cement Co., Ltd., Bagalkot, was pending in I. D. No. 38/64 on the file of this tribunal, relating to the payment of bonus or additional bonus for the years 1960 and 1961 etc.,

2. During the pendency of the said dispute the management of the II Party Company filed an application under Section 33(2) of the Industrial Disputes Act, 1947, alleging that Sri Sabanna Peerappa, Token No. 256, Oilman, was found loitering within the premises of the Works beyond a reasonable time after his duty hours in unauthorised places and engaged himself in unauthorised activities, that he assaulted another worker Sri Honnappa, causing him bodely injuries and indulged in fighting with three workers and threatened and intimidated the employees of the plant, that he further used abusive language, that in a domestic enquiry he was found guilty of misconduct and therefore he was dismissed from service, that the misconduct was unconnected with the dispute under Reference, that the workman had been paid one month's wages and this tribunal should therefore accord approval of the action taken by it. The Opposite Party Sri Sabanna Peerappa emphatically repudiated the charges levelled against him and contended that the domestic enquiry offended the principles of natural justice and the management was actuated by improper motives in terminating his services and the approval sought for should not therefore be accorded.

3. When the matter came up for evidence at Bagalkot Camp on 27th June 1965, both parties filed a joint Memo to the effect that the employee Sri Sabanna Peerappa expressed in writing his regret for his misconduct and undertook not to indulge in that way and that the management therefore agreed to take him back on work with continuity of service in his original post within seven days from 27th June 1965 if he reports himself for work within that time and in the event of his failure to do so he shall not be engaged therefor. They therefore prayed to dispose of this Serial Application and the connected Complaint No. 25 of 1964 according to law. Now that the parties have amicably settled the dispute between themselves in the manner specified in their joint memorandum dated 27th June 1965, this Serial Application stands rejected.

4. In Complaint No. 25 of 1964 the Said Sabanna Peerappa had questioned the legality of the order of dismissal passed by the Opposite Party on more grounds than one and prayed for his reinstatement in his former post and payment of back wages. This Complaint was resisted by the management on the ground that it was not maintainable, that this tribunal had no jurisdiction to entertain the same, that the Applicant had already filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, praying for approval of the action taken against the Complainant and that this tribunal has marked that Application as Serial No. 43 of 1964 and as such there has been no contravention of section 33 of the Industrial Disputes Act, 1947.

5. When this Complaint was taken up for further proceedings at Bagalkot Camp on 27th June 1965, as already stated, both parties bad amicably settled their dispute in Serial No. 43/64. The Complainant therefore submitted that in view of that settlement he would not press this complaint.

6. Now that the Complainant has not pressed this complaint, I have no other alternative than to reject it and accordingly it stands rejected. No costs.

R. KRISHNA SETTY,

Presiding Officer,
Industrial Tribunal.

GOVERNMENT OF MYSORE

(LABOUR DEPARTMENT)

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Bagalkot Cement Co. Ltd., Bagalkot.

Award of the Industrial Tribunal, Bangalore, published.

Read the following papers.—

1. Letter No. 495/65-66, dated 30th June 1965, from Shri R. Krishna Setty, Presiding Officer, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

Dated 29th June 1965.

Present

Sri R. Krishna Setty, B.A., L.L.B., Presiding Officer.

I.D. No. 48 of 1964.

I Party :—

Workmen of Bagalkot Cement Co. Ltd., Bagalkot, By the General Secretary, Bagalkot Cement Co. Workers' Union, Bagalkot.

Vs.

II Party :—

Management of Bagalkot Cement Co. Ltd., Bagalkot, Bijapur District.

Representations.

Sri D. M. Khalasi, General Secretary of the Union for the I Party and Sri B. Narayanaswamy, Advocate, for the II Party.

Government Reference No. PLM 432 LLD 64, dated 14th December 1964.

AWARD

This is an industrial dispute between the workmen and management of Bagalkot Cement Co. Ltd., Bagalkot relating to Dearness Allowance to all workmen from July 1960, payment of Rs.11/- per wagon to the employees in unloading coal and reinstatement of Sri J. B. Zingade.

2. The Government of Mysore, under Sec. 10 (1) (d) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), by their Order No. PLM 432 LLD 64, dated 14th December 1964, referred that dispute to this tribunal for adjudication. There are three

points of dispute scheduled in the order of Reference. They are as follows :—

"1. Whether the workmen of Bagalkot Cement Co. Ltd., Bagalkot are entitled to be paid dearness allowance as per the recommendations of Central Wage Board for cement from July 1960 ?

2. Whether the termination of services of Sri J. B. Zingade of the Baglkot Cement Co. Ltd., Bagalkot is justified ; if not, is he entitled to be reinstated with back wages or any other relief ?

3. Whether the wage rate to the employees of the Company in unloading coal should be fixed at Rs. 11.00 per wagon, or to what other rate should the same be fixed ?"

3. In the detailed Claim statement filed in the case, the workmen demanded increased dearness allowance since July 1960 as recommended by the Central Wage Board for Cement industry. They also demanded reinstatement of J. B. Zingade, one of the employees of the Company, in his former post on the ground that he had been illegally dismissed without notice, without a domestic enquiry and against the principles of natural justice. It is further alleged that in that coal unloading section of the Company their were nearly 100 employees, that the coal loading work was carried out by a group of 5 workers and they were paid Rs. 5.50 for unloading a wagon, that the daily earnings of a worker were not guaranteed as it depended on the coal arrival at Bagalkot and therefore prayed that they should be paid a minimum of Rs. 11.50 per wagon for unloading coal by a gang of 5 workers.

4. The II Party Company did not file the counter statement though sufficient opportunity had been given. I therefore posted the case for trial at Bagalkot Camp on 10/11th May 1965. When the case was called on for hearing on 11th May 1965 in that camp, both parties filed a joint memorandum of settlement in regard to points Nos. 1 and 3 scheduled in the order of Reference. By this settlement the company had agreed to pay to its workers concerned in the dispute the difference in dearness allowance between what they had been paid and what is payable to them in accordance with the recommendations of the Wage Board and that the said difference would be calculated and paid to the workmen who are entitled to receive the same on or before 30th of August in two instalments, the first on 30th June 1965 and the second on 30th August 1965. The Company was further willing to adopt a system as is prevalent in any other near-about Cement factory and that the parties would work out the details and therefore the first

party Union did not press the demand for increasing the unloading charges from Rs. 5 50 to Rs 11.00. Thereafter the case was posted for trial on the other point *viz.*, about the legality or otherwise of the order of termination of J. B. Zingade. On 27th June 1965, when the case was taken up for trial on this question at Bagalkot Camp, both parties filed a joint memorandum of settlement by which the company had agreed to take J. B Zingade back on his post at the last place of work if he reported himself for duty within 15 days of the publication of the award failing which he will not be entitled to be taken back for work and further the management was agreeable to pay him a subsistence allowance of half the rate of his wages from 9th March 1964 till the time allowed to him to return to work. In my opinion the arrangement made between the parties is likely to establish industrial peace in the Company and therefore I have no hesitation to give my approval for this arrangement. I therefore make an award in terms of the settlements dated 11th May 1965 and 27th June 1965 and the same are annexed herewith as annexures 'A' and 'B' and shall from part of this award. No costs.

R. KRISHNA SETTY,
Presiding Officer,
Industrial Tribunal.

ANNEXURE 'A'.

BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE.

I. D. No. 48 of 1964.

The Workmen of Bagalkot Cement Co. Ltd., represented by the General Secretary, Bagalkot Cement Co. Workers' Union, Bagalkot.
I Party

Vs.

The Management of Bagalkot Cement Co. Ltd., Bagalkot, Dist. Bijapur. ... *II Party.*

May it please the Honourable Tribunal.

The parties to the above Reference arrived at a settlement in the abovenoted reference in respect of the following issues

and pray the tribunal be pleased to pass an award in terms hereof :—

Point No. 1.—

Whether the workmen of Bagalkot Cement Co. Ltd., Bagalkot, are entitled to be paid Dearness allowance as per recommendations of Central Wage Board for Cement, rom July 1960 ?

Point No 2.—

Whether the termination of services of Sri J. B. Zingade of Bagalkot Cement Co. Ltd., Bagalkot, is justified ; if not, is he entitled to be reinstated with back wages or any other relief ?

Point No. 3.—

Whether the wage rate to the employees of the company in unloading coal should be fixed at Rs. 11 per wagon or to what other rate should the same be fixed ?

Management represented by
(Sd.) S. P. Chibber,
Works Manager
(Sd.) B. Narayana Swamy,
Advocate for Co.

Agreement

(1) The Company has agreed to pay to its workmen concerned in this dispute the difference in Dearness Allowance between what they have been paid and what is payable to them in accordance with the recommendations of the Wage Board.

(2) That this difference shall be calculated and paid to the workmen concerned in this dispute, who are entitled to receive the same, on or before 30th August in two instalments the 1st instalment to be paid on 30th June 1965 and the 2nd instalment on 30th August 1965.

In this dispute the parties are still discussing and have not yet arrived at any settlement, and they will report if there is any settlement in respect of this reference at the next hearing at Bangalore and if no settlement has been arrived at, will proceed with the hearing. The management undertakes to file its written statement in respect of items 2 and 3 at least seven days before the next day of hearing if the matter has not been settled, and simultaneously serve a copy to the union.

The Company is willing to adopt a system as is prevalent in any other near about cement factory and the parties will work out the details. This demand will, therefore not be pressed at present.

(Sd.) D. M. Khalasi,
Workers represented by B. C. C.
Workers' Union.

"TRUE COPY"

ANNEXURE 'B'.

BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE.

I. D. No. 48/64.

Workmen of Bagalkot Cement Co. Ltd., represented by the General Secretary, Bagalkot Cement Co. Workers' Union.

I Party.

Vs.

The Management of Bagalkot Cement Co. Ltd., Bagalkot.

II Party.

May it please the Honourable Tribunal.

Agreement on Point No. 2.

Without prejudice to the contention of either party it is agreed between the parties that Mr. Zingade will be taken back on his post at the last place of his work if he reports for duty within 15 days of the publication of the Award. His failure to report for work within the said period of fifteen days, he will not be entitled to be taken back for work.

The management is agreeable to pay Mr. Zingade from 9th March 1964 a subsistence allowance of half the rate of his wages till the time allowed for him to return to work.

The parties pray that the Honourable Tribunal may be pleased to pass an award on the above terms.

(Sd.) J. B. Zingade,
Management represented by
(Sd.) B. Narayanaswamy,
Advocate for the Company.

(Sd.) D. M. Khalasi,
General Secretary
Bagalkot Cement Co. Workers'
Union, Bagalkot.

Bagalkot,
27th June 1965.

"TRUE COPY"

Bangalore-2,
Dated 27th June 1965.

R. KRISHNA SETTY,
Presiding Officer, Industrial Tribunal.